STATE OF MICHIGAN

IN THE SUPREME COURT

APPEAL FROM THE MICHIGAN COURT OF APPEALS

Judges Jessica R. Cooper and Mark J. Cavanagh (Majority)
Judge Brian K. Zahra (Dissenting)

CASCO TOWNSHIP, COLUMBUS TOWNSHIP, PATRICIA ISELER and JAMES P. HOLK,

Plaintiffs/Counter-Defendants-Appellants,

V

CANDACE S. MILLER, MICHIGAN SECRETARY OF STATE; CHRISTOPHER M. THOMAS, DIRECTOR, BUREAU OF ELECTIONS, and CITY OF RICHMOND,

Defendants/Appellees,

-and-

WALTER K. WINKLE and PATRICIA A. WINKLE,

Intervening Defendants/
Counter-Plaintiffs/Appellees,

/

Supreme Court
Case No. 126120

Court of Appeals
Case No. 244101

Ingham County Circuit
Court Case No. 02-991-CZ

BRIEF ON APPEAL OF APPELLEES, WALTER K. WINKLE AND PATRICIA A. WINKLE

ORAL ARGUMENT REQUESTED

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THE COURT OF APPEALS ANSWERED "YES"
THIS APPELLEE ANSWERS "YES"

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THE COURT OF APPEALS ANSWERED "YES"
THIS APPELLEE ANSWERS "YES"

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THE COURT OF APPEALS ANSWERED "YES"
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THE COURT OF APPEALS ANSWERED "YES"
THIS APPELLEE ANSWERS "YES"

INTRODUCTION

The Township's arguments are made possible by two acts of misdirection. Without them their arguments are exposed and fail.

The first act of misdirection is the combination of two separate and distinct detachments into one. One detachment involves the City of Richmond and Casco Township. The other involves the City of Richmond and Columbus Township. There is no authority in the HRCA allowing two or more detachments to be combined. The Townships have skipped the issue of whether separate detachment questions can be combined and have focused the issue as whether, once combined, a single election should be held. The Townships focus their energy on the argument that the HRCA requires a single petition and a single election involving the entire territory to be affected. That may be true with respect to a single detachment question. It is not true with respect to multiple detachment questions improperly combined into one. Each detachment question begins with its own petition and ends with its own election.

The second act of misdirection is that the Townships hide the fact that the HRCA describes four separate and very different boundary change processes: incorporations, consolidations, annexations and detachments. Instead, their argument is premised on the HRCA being solely a detachment statute. This allows them to then argue that every word and every phrase in the HRCA applies only to detachments. By ignoring the other boundary change processes, the Townships are able to argue, for example, that the words "each ... township" allows detachments involving more than one township. The Townships myopic approach ignores that, when viewed in context, such words cannot describe detachments involving multiple townships but do describe, for example, incorporations involving multiple townships.

To maintain this limited view of the HRCA, the Township resort to quoting statutory language with words irrelevant to detachments deleted, which they do repeatedly in their brief.

The HRCA states a clear procedure for a single detachment, where land is transferred from a city to a single township. The only way to have a detachment involving more than one township is to combine two or more detachments into a single proceeding. The HRCA does not authorize such a combination. The lower courts were correct to affirm the decision of the Secretary of State refusing to certify the combined petitions.

The Townships continue their quest for a single election on a combined detachment petition because they want to artificially inflate the Townships' combined voting strength relative to Richmond. If the Townships' succeed then the electors in one township will be permitted to vote on matters affecting only other townships. For example, electors in Casco Township would be permitted to vote on whether land is detached from Richmond into Columbus. There is nothing in the HRCA which suggests that a non-interested township was intended to be granted the privilege of voting on a detachment between a city and another township. The final proof that the HRCA was not drafted with that intent is that it would be unconstitutional to interpret the HRCA in that manner. The axim that statutes are to be construed to avoid absurd results is applicable here and underscores the inescapable conclusion that the Townships' arguments are without merit if, for no other reason, what they ask for is an unconstitutional result.

COUNTER-STATEMENT OF FACTS

In 1998, territory was annexed from Casco and Columbus Townships into the City of Richmond. This occurred in an administrative decision before the State Boundary Commission. The petitions were brought by the property owners. Because the territory was largely uninhabited, no public vote was required or conducted. The Townships appealed the State Boundary Commission decision as far as they could but lost at every turn.[1]

With the ink barely dry on this Court's denial of leave, the Townships began detachment proceedings to (1) return territory from Richmond to Casco, and (2) return territory from Richmond to Columbus. Rather than circulate separate petitions for each detachment, the Townships combined the two detachments into one. (Petitions, 15a). Thus, Casco residents were permitted to sign petitions on the issue of detaching territory from Richmond into Columbus. If the petitions are approved, Casco residents would be permitted to vote in the Richmond/Columbus election. Likewise, Columbus residents were permitted to sign the Richmond/Casco petitions and would vote in the Richmond/Casco election. A certain number of signatures were required by Richmond residents. Despite certification requirements, Richmond never certified the signatures of any Richmond residents who may have signed the petitions.

The combined petitions were submitted to the Secretary of State. The petitions were not certified because the Secretary of State could not find any unambiguous authority for combining separate detachment petitions or conducting one combined election on two separate detachment questions. (Denial letter, 37a)

The Townships brought a Complaint for Mandamus and Declaratory Relief. The Ingham County Circuit Court, the Honorable Peter D. Houk, denied the relief sought and dismissed the

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[1] *Casco Township v State Boundary Commission*, 243 Mich App 392; 622 NW2d 332 (2000), lv den 465 Mich 855 (2001).

Complaint. Judge Houk recognized the issues of disenfranchisement involved with a combined petition and election and found that the HRCA did not clearly provide for combined petitions and elections. Given that the Townships had a clear alternative, circulate separate petitions and vote in separate elections, the extreme remedy of mandamus was not available. (Opinion and Order, 39a).

The Michigan Court of Appeals affirmed by a two to one vote.[2] The Townships still have the right under the HRCA to circulate separate petitions and call for separate elections to decide the two detachment questions. They have made no attempt to do so.

[2] *Casco Township v Secretary of State*, 261 Mich App 386; 682 NW2d 546 (2004).

ARGUMENT

I. THE TOWNSHIPS' PETITIONS IMPERMISSIBLY COMBINE TWO SEPARATE DETACHMENT QUESTIONS WHICH REQUIRE TWO SEPARATE PETITIONS AND WILL REQUIRE TWO SEPARATE ELECTIONS TO DECIDE.

This matter involves a question of statutory construction which this Court reviews *de novo*.[3] As this Court has often stated, "the paramount rule of statutory interpretation is ... to effect the intent of the Legislature."[4] Every word is to be afforded "some meaning" and effect should be given to each provision.[5]

The issue here concerns the procedure for a detachment stated in the HRCA.[6] The HRCA allows the Townships to circulate a petition and to conduct an election on the issue of whether land should be detached from Richmond to Columbus. A separate petition and separate election can be circulated and conducted on the issue of whether land should be detached from Richmond to Casco. The issue here is whether the HRCA unambiguously permits the Townships to combine the two detachments and treat them as one. The Circuit Court and Court of Appeals held that the HRCA does not permit such a result.

The Townships spend all of their energy arguing that the text of the HRCA requires one petition and one election for the entire district and territory affected. This is true when applied to one detachment. What the Townships spend no energy discussing is how they were able to take two detachments, combine them, and treat them as one. They cite no cases in which two

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[3] *In re MCI Telecommunications*, 460 Mich 396; 596 NW2d 164 (1999).

[4] *Wickens v Oakwood Health Care System,* 465 Mich 53, 60; 631 NW2d 686 (2001).

[5] *People v Borchard-Ruhland,* 460 Mich 278, 285; 597 NW2d 1 (1999).

[6] Despite statements to the contrary, these parties do not challenge the petitions and proposed election because they claim a vested right in their property boundaries. See, Appellants' Brief, at 25-28. They challenge the petitions because they were circulated contrary to the HRCA and are procedurally invalid. They oppose the election because a combined election is contrary to the HRCA and would be procedurally unconstitutional if conducted as requested by the Townships.

separate detachments (land from one or more cities was detached to two or more separate townships) were combined and decided as one. They cite no text in the HRCA which clearly and expressly states that two separate detachments can be combined and proceed as one.

Rather than justify the combination of separate detachments, the Townships simply argue that because they unilaterally chose to combine multiple detachments into one that the words in the HRCA, meant to apply to a single detachment, must also be applied to their combined detachments. Why then should we not apply it to three, four, five or more detachments of land in multiple cities to be detached to multiple townships all with a single petition and a single election? Why not have a single yearly detachment election where every detachment in the State is combined into one statewide vote? We do not because the HRCA was intended to state a process for a single, not multiple, detachment.

Multiple boundary changes cannot be combined because that was not the intent of the Legislature and it perverts the detachment procedures. Support for this is found in MCLA §117.6 which requires a petition to be "obtained from each [governmental unit] to be affected by *the proposed change*."[7] The words "the proposed change" clearly refers to one boundary change, not many.

The same use of the singular "the" and "change" to denote the intent for a single rather than multiple boundary changes is found in MCLA §117.10. MCLA §117.10 states:

> "The county clerk shall, . . ., transmit a certified copy of said petition and of such resolution to the clerk of each city, village or township in the district to be affected by *the proposed incorporation, consolidation or change*, . . ."[8]

Detachment of territory from Richmond into Casco is a single boundary change and a single detachment question. Other territory may be affected by this change but it is a single boundary

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[7] MCLA §117.6

[8] MCLA §117.10 (emphasis added).

change.[9] The entire process stated in the HRCA, whether it be incorporation, consolidation, annexation or detachment, describes a process to affect one, single, boundary change. The Townships, however, attempt to affect two changes in one petition and one election.

There is further evidence indicating the intent that every detachment has its own petition and election. The phrase "district to be affected" means the "whole of each city, village or township from which territory is to be taken or to which territory is to be annexed".[10] In the context of the detachment of territory from Richmond to Casco, the 'district to be affected' means Richmond and Casco. It does not include Columbus. The detachment question is to be submitted to the "electors of the district to be affected".[11] In the context of the detachment of territory from Richmond to Casco, the question is to be submitted to the electors in Richmond and Casco, not Columbus. The Townships' unilateral decision to combine multiple detachment questions cannot so fundamentally change the HRCA to expand the definition of 'the district to be affected" to include other townships or districts.

There is no clear authority in the HRCA which grants the Townships the rather remarkable authority to combine separate detachments to eliminate some of the petition and election requirements. There are no cases in which the courts have permitted such combined detachments. All of the authority is to the contrary.

II. THE WORDS IN THE HRCA REFERRING TO MULTIPLE TOWNSHIPS MUST BE CONSTRUED IN CONTEXT – THOSE WORDS APPLY ONLY TO OTHER BOUNDARY CHANGE PROCESSES WHICH CAN INVOLVE MULTIPLE TOWNSHIPS.

Despite the Township's insistence that the HRCA is plain, simple and unambiguous, it is clearly none of those things when applied to combined detachments. And despite *Williamston v*

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[9] See, fn 17, *supra*, p. 12.
[10] MCLA §117.9(1).
[11] MCLA §117.11

Wheatfield Township,[12] which held that other portions of the HRCA are unambiguous, the provisions of the HRCA relied upon by the Townships here are ambiguous unless and until they are put into context with the overall substance and purpose of the HRCA. This the Townships have failed to do.

The thrust of the Townships' argument is that a detachment petition and election can involve multiple cities and multiple townships because the HRCA sometimes refers to "each city, village or township."[13] According to the Townships, but certainly not conceded, "each" means more than one. Hence, detachment can involve more than one city, village and township. Construed out of context and with a complete disregard for the entire subject matter of the HRCA, this argument has an initial attractiveness. But this is an overly simplistic interpretation which does not put the subject matter of the HRCA in context or interpret it as a whole. It results in unintended and unconstitutional results.

The Townships misconstrue the HRCA principally because they fail to acknowledge that the HRCA is not just a detachment statute. It is an incorporation, consolidation, annexation and detachment statute. Although each of these boundary change processes can result in changed municipal and township boundaries, they are very different processes. For example, some of these processes involve existing cities while others do not. Some involve multiple townships, while others do not. To understand the meaning of "each city, village or township," one must understand each of the different processes and apply the words in the statute in the context of the process then at issue.

When applied in proper context and to a particular boundary change process, some words take on meaning and others become inapplicable. This is what the Townships fail to do. Instead,

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[12] *Williamston v Wheatfield Township*, 142 Mich App 714; 370 NW2d 325 (1985).
[13] See, e.g., MCLA §117.6.

they argue that each word in the HRCA applies fully to each different boundary change process, including detachment proceedings. This is wrong for at least two reasons. First, it simply cannot be done. Some words in the HRCA have no meaning when applied to one or more of the boundary change processes. Second, applying words out of context makes the HRCA more confusing and more ambiguous - and results in erroneous constructions such as the one now being advanced by the Townships.

To put the words in the HRCA into proper context, one must apply the applicable words to the applicable boundary change processes it describes. An incorporation is the taking of territory from one or more villages or townships to create one new city. When read in context of an incorporation, the word "city" in "each city, village or township" has no application because the process of incorporation does not involve an existing city. There is no petition that can be submitted to the residents of a city because the city does not yet exist. There can be no election involving city residents because the city does not exist until there is a favorable vote in the election. When read in the context of an incorporation, the words "each city, village or township" means one or more villages or townships.

A consolidation is the taking of territory from one or more cities, villages and townships to create one newly configured, but pre-existing, city. When read in the context of a consolidation, the words "each city, village or township" mean one or more cities, villages or townships.

An annexation is the taking of territory from one or more townships to create one newly configured, but pre-existing, city. When read in the context of an annexation, the words "each city, village or township" mean one city and one or more villages or townships.

A detachment is the taking of territory from an existing city and returning it to a single, pre-existing, township. When read in the context of a detachment, the words "each city, village or township" mean one city and one township.

Because the HRCA describes four distinct processes *in seriatim*, the words in the statute are written very broadly. To understand the words, one must understand the context, or process, at issue. The words "each city, village or township" mean different things depending on the context/process then at issue. When the context is incorporation, "each city" has no meaning. When the context is consolidation, all of the words have meaning. When the context is annexation, "each village" has no meaning, "city" means a single city and "each township" can mean one or more townships. When the context is detachment, "each village" has no meaning, "city" means a single city, and "township" means a single township. Depending on the context, then, the words "each city, village or township" can mean something different.

The Townships will surely respond that putting the HRCA into its proper context in this manner should not be done because, depending on the context, it ignores words in the statute. They will argue that "each ... township" plainly means multiple townships regardless of which boundary change process is being discussed.[14] The Townships' argument is simple and easy to understand. But it is wrong. First, putting the HRCA into context does not ignore any words – it merely reserves words for the boundary change process to which they were intended to apply. Second, the rules of statutory construction requires every word to be afforded "some meaning" not every possible meaning in every possible situation.[15]

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[14] Despite arguing that every word must be given full meaning in their two detachments, the Townships give no meaning to "village." In fact, they repeatedly omit "village" from statutory quotations when discussing how the HRCA governs detachments. See, Appellant's Brief, at 10.

[15] *People v Borchard-Ruhland,* 460 Mich 278, 285; 597 NW2d 1 (1999).

To illustrate, consider the incorporation process. MCLA §117.6 requires the incorporation process to begin by a petition "obtained from each city, village, or township to be affected".[16] This is impossible because an incorporation creates a city, it does not start with an existing city. Read literally and out of context with the intent and purpose of the act, as insisted by the Townships, the HRCA seems to require the incorporation process begin with a petition from a city despite there being no city capable of providing that petition. Of course this is wrong. No one has ever seriously argued that the HRCA be construed in that manner. To continue the illustration, if the particular incorporation at issue is strictly of territory located in townships but not in villages, there would be no village capable of providing the petition which the Townships' construction of the HRCA demands.

Again anticipating the response from the Townships, they may argue that petitions are only required from "each city, village, or township to be affected by the proposed change". Since there is no city or village effected by the proposed change, their construction of the HRCA does not require a petition from either a city or a village to start the incorporation described in the example above. Such a response would not support the Township's position for at least two reasons. First, it admits the chief argument against their position - that the HRCA must be construed in the context not only of the particular boundary change process involved (incorporation, consolidation, annexation or detachment), but in context of the particular circumstances of that boundary change process (e.g. incorporation involving only township territory). Such an admission would be fatal to their claims because interpreting those words in the context to a detachment would result in "each city, village, or township" meaning one city and one township.

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[16] MCLA §117.6.

Second, the further words in MCLA §117.6, "the proposed change", further supports the Court of Appeals' decision. As earlier discussed above, the word "change" is singular. The words "the proposed change" describes a single boundary change.[17] In a detachment, there is only one township that receives territory by the single proposed change. The Townships readily admit they are attempting two boundary changes - one caused by taking territory from Richmond and adding it to Casco; one caused by taking territory from Richmond and adding it to Columbus. Thus, if the HRCA only permits a petition to make a single change, the Township's petition attempting two is improper.

To be entitled to relief, the Townships must show that the HRCA clearly and unambiguously permits the combination of petitions and elections to start and decide two detachments. As shown above, when read in full and proper context, the HRCA cannot be construed that way. A proper interpretation of the HRCA, read in context and applied to a detachment proceeding, supports the conclusion that a separate petition and election is required for each detachment. The HRCA certainly does not unambiguously authorize combined petitions and elections to decide multiple detachment issues.

III. THE TOWNSHIPS' INTERPRETATION OF THE HRCA PRODUCES ABSURD AND UNCONSTITUTIONAL RESULTS AND SO CANNOT BE CORRECT.

The basic tenet of statutory interpretation is that the intent of the legislature is to be effected. But no statute should be construed to produce absurd results.[18] As shown below, the interpretation argued by the Townships would produce absurd results. Not just absurd, but unconstitutional. Therefore, even if this Court were persuaded by the Townships that the

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[17] See, MCLA §117.6. A "single boundary change" refers to the single new city or township which is created or receives new territory. See *infra*, p. 7. Even where, for example, three townships are incorporated into one new city, this is a single boundary change because one new city is created.

[18] *Morris & Doherty, PC v Lockwood*, 259 Mich App 38; 672 NW2d 884 (2003).

Legislature actually intended multiple detachments to be initiated with a single petition and decided in a single election, that result cannot be implemented. Allowing non-residents (for example, Casco electors) who do not have a substantial, or any, interest in the subject matter of the election to vote (for example, in the Richmond/Columbus detachment), even if the state statute arguably allows them to do so, would be a violation of the equal protection clause in both the US and Michigan Constitutions.

The Fifth Circuit addressed this issue in the context of school board elections in *Phillips v Andress.*[19] There, Tuscaloosa County voters sought an injunction preventing county residents living within the City of Tuscaloosa from voting for members of the Tuscaloosa County School Board. The city's residents were permitted, pursuant to an Alabama statute, to vote in county school board elections by virtue of their residence in Tuscaloosa County, despite the fact that the City of Tuscaloosa had an independent school system and city school board. The Fifth Circuit Court held that the residents of the City of Tuscaloosa did not have a substantial interest in the operation of the Tuscaloosa County School Board or school system because the two systems (County and City) were operated separately. The city residents, therefore, were not permitted to vote in the county election despite a state statute which stated that they could. The Fifth Circuit Court applied a rational basis test and concluded that, because of the lack of a substantial interest in the County School Board and school system, that the state statute impermissibly permitted the city voters to dilute the votes cast by county voters.

The Sixth Circuit follows the same rational basis test that was utilized in *Phillips.*[20] Pursuant to this test, the inclusion of "out-of-district" voters in another district's elections violates equal protection unless there is a rational basis for their inclusion. A decision to include

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[19] 634 F2d 947 (CA 5, 1981).

[20] *Duncan v Coffee County*, 69 F3d 88 (CA 6, 1995).

"out-of-district" voters in the election is rational only if it can be shown that those voters have a substantial interest in the other district's election.[21] Several factors are analyzed when determining whether "out-of-district" voters have a substantial interest in the election, including the degree to which one district is financing the other and the voting strength of the non-resident voters.[22] These factors, applied in this case, weigh heavily in favor of a finding that Casco electors do not have a substantial interest in the detachment of territory from Richmond to Columbus.

The Michigan Constitution contains an equal protection clause similar to that of the United States Constitution. This Court has held Michigan's equal protection clause "secures the same right of equal protection as does its counterpart in the Constitution of the United States."[23] As such, the rational basis test for equal protection challenges under the U.S. Constitution applies with the same force to equal protection challenges under the Michigan Constitution. Whether tested under the U.S. or Michigan Constitution, residents of township A cannot vote on a detachment between a city and township B because the residents of township A do not have a substantial, if any, interest in that detachment. Because any statute that would purport to establish such a scheme is unconstitutional, interpreting a statute in that manner when other interpretations are possible and even preferred, would be absurd.

The Court of Appeals recognized the problem with the Townships' voting scheme. It cited *Morris & Doherty, PC v Lockwood*[24] and the equal protection guarantees of the Michigan

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[21] *Duncan, 69 F3d* at 94.
[22] *Duncan, 69 F3d* at 96.
[23] *Fox v Employment Security Commission*, 379 Mich 579, 588; 153 NW2d 644 (1967); *Baldwin v North Shore Estates Assoc.*, 384 Mich 42, 51; 179 NW2d 398 (1970).
[24] *Morris & Doherty, PC v Lockwood*, 259 Mich App 38; 672 NW2d 884 (2003).

Constitution[25] in support of its conclusion. The Townships attack this holding of the Michigan Court of Appeals yet concede that the Michigan Constitution contains equal protection guarantees. *Morris & Doherty* simply holds that "[s]tatutes should be construed to avoid absurd consequences, injustice, or prejudice to the public interest.[26] Far from being off point, *Morris & Doherty* prohibits the construction of the HRCA sought by the Townships because it results in unconstitutional, i.e. absurd, voting schemes.

The Townships' argument that *Midland Township*[27] cures any equal protection problem with their voting scheme is also misplaced. *Midland* held that citizens of a municipality have no vested rights in their municipal boundaries. No one yet has claimed such vested right. Moreover, *Midland* said nothing about equal protection issues. Although citizens of Richmond and Casco, for example, have no vested rights in their municipal boundaries, they do have a right to expect a constitutionally proper procedure to determine those boundaries and have equal protection guarantees that prohibit the dilution of their votes by voters in Columbus, East China, Lenox or other non-involved, non-interested municipalities.

An unconstitutional result need not follow. If this Court interprets the HRCA in context and in keeping with the four separate boundary change processes, it should conclude that a single detachment question is begun with its own petition and ends with its own election. This interpretation avoids the absurd results of concluding that the Legislature intended unconstitutional procedures.

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[25] Michigan Constitution, 1963, Art. 1, § 1.
[26] *Morris & Doherty*, *supra*, at 44.
[27] *Midland Township v State Boundary Commission*, 401 Mich 641; 259 NW2d 326 (1977).

IV. THE TOWNSHIPS SEEK TO MANIPULATE THE HRCA IN A WAY WHICH PERVERTS THE PETITION AND ELECTION PROCEDURE TO IMPROPERLY POOL THEIR VOTING STRENGTHS AGAINST RICHMOND.

The HRCA permits a township to circulate a detachment petition and seek an election on the issue of transferring territory from a city back into a single township. There are few obstacles that a city can raise to the process. The decision on the detachment will ultimately be decided by the voters in the city and the township. The Townships did not pursue this simple approach. On the contrary, they chose the very difficult path of pursuing combined petitions and combined elections. They have met with the expected resistance from Richmond and the property owners. They have been rebuffed by the Secretary of State, the Ingham County Circuit Court, and the Court of Appeals. Yet they continue their quest for combined petitions and elections on multiple boundary change questions.

The question becomes, "why"? The answer is not flattering to the Townships and shows what is really at stake in this litigation. The Townships seek nothing other than the Court's approval to pool their combined voting strength to disenfranchise city voters. If a combined vote is approved, Casco residents will vote on the detachment of territory from Richmond into Columbus. But this goes to the heart of the constitutional questions: Casco residents have no interest on matters effecting only Richmond and Columbus. The same can be said of the possibility that Columbus residents will vote on the detachment of territory from Richmond into Casco.

The combination of the separate detachment questions was done for the express purpose of pooling the Townships' votes against Richmond. This is wrong. The Townships know it is wrong. The Secretary of State's Brief to the Court of Appeals attached, at Exhibit 2, a marketing newsletter issued by the Townships' counsel. That newsletter clearly states that the purpose of

combining detachment questions is to combine the voting power of two or more townships to force concessions or gain relief from a single city. A clever attorney found ambiguities in the HRCA, which if read out of context, allows for an argument to combine detachment questions. Clever arguments and marketing campaigns aside, there is no indication in the HRCA that the Legislature intended to so fundamentally change voting rights and cannot alter those rights in this manner even if it sought to do so.

The Michigan Township Association ("MTA") filed an amicus brief in the Court of Appeals, and again in this Court, that contains the rather remarkable admissions that 1) the townships are using the HRCA in a manner not intended, 2) the MTA knows it is wrong, and 3) the MTA does not care that it is wrong. The MTA justifies this by claiming that cities have circumvented the intent of the HRCA to accomplish annexation but now it is the townships' turn to circumvent the HRCA to get what they want. The MTA further justifies this by saying "what is good for the goose, is good for the gander".[28] This is an astonishing and troubling admission. This is not a matter of questioning why the Townships' desire the two detachments, these are admissions that they have intentionally perverted the process to achieve their desired ends.

The bottom line here is that the Townships think they have found an ambiguity in the HRCA which would permit, for example, Columbus voters to sign petitions and vote on a detachment of territory from Richmond to Casco. These are absurd results which create injustice and unconstitutionally prejudice voting rights. These results are only possible by reading the HRCA out of context and ignoring its purposes. Still the question remains: Will the Michigan Courts allow the HRCA to be manipulated in this manner. So far the answer has been "No". The answer from this Court should be a resounding "No".

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[28] Michigan Township Association, Amicus Brief in the Michigan Court of Appeals, at 2.

RELIEF REQUESTED

When construed in context, the HRCA does not permit two detachment questions to be combined and decided by a single petition or single election. To construe otherwise would be to ignore the intent and purpose of the HRCA. The result would be to sanction an improper and unconstitutional pooling of votes in which voters in a township are permitted to sign petitions and vote in elections to decide a detachment not involving their township. The Secretary of State was correct to deny certification of the petitions because the HRCA does not unambiguously permit combined petitions and elections. The Ingham Circuit Court and the Court of Appeals were both correct to deny the Townships the relief they seek. This Court should affirm.

Respectfully submitted,

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